

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
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4 Universal Processing Services of Wisconsin, LLC
5 dba Newtek Merchant Solutions,

6 Plaintiff

7 v.

8 Sungame Corp., et al.,

9 Defendants
10

2:16-cv-00074-JAD-GWF

**Order Denying Motions to Dismiss as
Moot in Light of Amended Complaint**

[#23, 24, 28, 42]

11 In response to the original complaint, defendants moved to dismiss the complaint or,
12 alternatively, transfer venue.¹ Two weeks later, plaintiff filed an amended complaint,² and the parties
13 have stipulated to extend the defendants' deadline to answer or otherwise respond to it.³

14 Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure permits parties to amend their
15 complaints once as a matter of course within 21 days of a motion to dismiss.⁴ Plaintiff's amended
16 complaint was timely filed as of right. Once filed, an amended pleading supersedes the original
17 pleading in its entirety, mooted a motion to dismiss the original pleading.⁵

18 Accordingly, IT IS HEREBY ORDERED THAT the motions to dismiss or transfer venue
19 based on the original complaint [ECF No. 23, 24, 28] are **DENIED** as moot and without prejudice;

20 I treat the pending stipulation to extend time to respond to the complaint [ECF No. 42] as a
21 joint motion to extend the deadlines, and IT IS FURTHER ORDERED that the request to extend the
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23 ¹ ECF No. 23, 24, 28.

24 ² ECF No. 37.

25 ³ ECF No. 42.

26 ⁴ Fed. R. Civ. P. 15(a)(1)(B).

27 ⁵ See *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997), *overruled on other grounds in*
28 *Lacey v. Maricopa County*, 693 F.3d 896, 928 (9th Cir. 2012).

1 deadlines [ECF No. 42] is GRANTED. Defendants will have until May 27, 2016, to answer or
2 otherwise respond to the amended complaint [ECF No. 37]; if any defendant moves to dismiss
3 the amended complaint, plaintiff's response will be due June 17, 2016, and reply briefs will be
4 due July 1, 2016.

5 IT IS FURTHER ORDERED that the hearing on the original motions to dismiss
6 scheduled for June 13, 2016, is VACATED.

7 Dated this 16th day of May, 2016.

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10 Jennifer A. Dorsey
11 United States District Judge
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